



**Irrigated Lands  
California Regional Water Quality Control Board  
Central Valley Region**



## **FACT SHEET**

### **History of the Conditional Waivers of Waste Discharge Requirements for Discharges from Irrigated Lands**

Regional Water Quality Control Boards (RWQCB) regulate discharges of waste primarily through issuance of Waste Discharge Requirements (WDRs) and National Pollutant Discharge Elimination System (NPDES) permits. The California Water Code (CWC) provides that anyone discharging or proposing to discharge waste that could affect water quality must file a report of waste discharge (ROWD). This includes irrigation return flows and storm water runoff from agricultural lands. After receipt of a ROWD, the RWQCB has a statutory obligation to prescribe WDRs or an NPDES Permit Order. NPDES permits are issued for point source and municipal storm water discharges, but irrigation return flows and storm water discharges from irrigated lands are currently exempted from the NPDES permit program.

The requirement for WDRs may be waived by a RWQCB for a specific discharge or type of discharge where such a waiver is not against the public interest. On 26 March 1982, the Central Valley Regional Water Quality Control Board (CVRWQCB) adopted Resolution No. 82-036 *"Waiving Waste Discharge Requirements For Specific Types Of Discharge."* The resolution listed 23 categories of waste discharges, including irrigation return flows and storm water runoff from agricultural lands, and the conditions required to comply with the waiver. This waiver had conditions, but due to insufficient resources, verification that dischargers were complying with conditions was not conducted, and thus the 1982 waiver was largely a passive program.

In 1999, Senate Bill 390 was adopted and changed the section of the CWC authorizing waivers of WDRs. As a result of the changes, all waivers in place on January 1, 2000 would sunset January 1 2003 if the Regional Board had not readopted them. This change in the law meant that the 1982 waiver, which included irrigation return flows and storm water runoff from agricultural lands in the Central Valley, would sunset. Additionally, waivers could no longer exceed five years in duration.

In November 2000, Deltakeeper, San Francisco Baykeeper and the California Public Interest Research Group submitted a petition asking the CVRWQCB to rescind the waiver and use WDRs to control discharges of pesticides from irrigated lands. The CVRWQCB held a workshop in July 2001 to receive information related to this issue and in September 2001 adopted a resolution denying the petition, but directed staff to prepare recommendations on how to regulate this category of discharges by the end of 2002.

In addition to these steps, the CVRWQCB held a workshop in December 2001 to discuss monitoring of agricultural drainage, and staff was directed to work with agricultural representatives on voluntary monitoring to be conducted by the agricultural community. Several

proposals were discussed over the months that followed, but a monitoring plan was not finalized and no voluntary water quality monitoring by the agricultural community was ever initiated.

In March of 2002, the State Board announced that it would look at this issue on a statewide basis, but after two workshops determined in the fall of 2002 that this was primarily a Central Valley issue. Throughout the process, many representatives from the agricultural community expressed a strong desire for continued regulatory oversight within the framework of a waiver, and with the 1982 conditional waiver scheduled to sunset 1 January 2003, staff worked over the next few months to develop a conditional waiver for discharges from irrigated lands for consideration by the CVRWQCB at its December 2002 meeting.

On 5 December 2002, the CVRWQCB adopted a Resolution No. R5-2002-0201 and the associated conditional waiver of WDRs for discharges from irrigated lands. The conditional waiver was slated to terminate in two years. Public comment on the December conditional waiver was significant and came from a broad spectrum of interests. Additionally, CVRWQCB members had questions on certain aspects of the newly adopted waiver. At the December meeting, the CVRWQCB directed staff to consider comments and questions, and synthesize this input into key issues, to analyze these issues, and provide options and recommendations that could address them. Modifications to the waiver were proposed in April 2003, and based upon further public comment and CVRWQCB direction, further modifications were proposed in June 2003.

On July 10, 2003 Resolution R5-2002-0201 was rescinded and on July 11, 2003, Resolution No. R5-2003-0105 was adopted by the Regional Board. Resolution R5-2003-0105 adopted two Conditional Waivers that were intended to remedy perceived procedural concerns and to clarify conditions contained in the December 2002 waiver. Under Resolution No. R5-2003-0105, one Conditional Waiver is for Coalition Groups or other entities which form on behalf of individual Dischargers to comply with the CWC and the Regional Board Plans and Policies. The second Conditional Waiver is for individual Dischargers.

Resolution No. R5-2003-0105 is a first or interim step in an evolving irrigated lands program. There are many issues that the Regional Board will continue to work with interested parties to address while the foundation for the 10-year program is being developed. Further, there are a number of issues that will require more data and analysis before they can be addressed. The 2-year interim Waivers are focused on building capacity of local groups, engaging with individual Dischargers, and starting data collection, all of which will be part of the foundation for the longer term program.

For additional information, please visit our website using the following link:

Programs – Agricultural Discharges:

<http://www.swrcb.ca.gov/~rwqcb5/programs/index.html>